

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-45  
PURPOSE, SCOPE, APPLICATION OF RULES, DEFINITIONS AND RIGHT TO APPLY  
FAMILIES FIRST PROGRAM**

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**1240-1-45-.01 PURPOSE, SCOPE AND APPLICATION OF RULES.**

- (1) Pursuant to the requirements of Public Chapter 950 (1996), the Families First Act of 1996, the Families First (Temporary Assistance) Program was created to replace the current Aid to Families with Dependent Children (AFDC) program in order to reform the program of economic assistance to needy families in Tennessee.
- (2) Pursuant to Section 8 (d) of Public Chapter 950 (1996), the Department of Human Services is directed to administer the program of economic assistance to families under Titles IV-A, IV-D, and IV-F of the Social Security Act pursuant to federal statutes or regulations as they continue to exist after the September 1, 1996 effective date of Public Chapter 950 or, as authorized under Public Chapter 950 (1996), pursuant to any waivers from those regulations that are granted to the Department as the result of the enactment of Public Chapter 950 (1996). A federal waiver from certain regulations prescribed by the United States Department of Health and Human Services concerning the AFDC, Child Support, JOBS, and Medicaid programs was granted to the Department of Human Services on July 25, 1996.
- (3) Section 8 (e) and Section 9 (d) of Public Chapter 950 (1996) permit the Department of Human Services to implement any rules by public necessity which are necessary to comply with the September 1, 1996 effective date of the Families First Act and to comply with the Federal waiver requirements or to maintain compliance with any federal law or federal regulation which has not been waived. These public necessity rules were implemented on September 3, 1996.
- (4) The rules in Chapters 1240-1-1 through 1240-1-44 and the following rules in Chapters 1240-1-45 through 1240-1-56 implement the provisions of the federal waiver and implement the provisions of Public Chapter 950 (1996) to the extent permitted by the federal waiver.
- (5) Where provisions of Public Chapter 950 and the terms of the federal waiver are in conflict, the provisions of the federal waiver shall control. Any provisions of federal law which cannot be waived, or federal regulations which have not been waived, shall continue to control the operation of the Families First (Temporary Assistance [TA] ) program in Tennessee, which is the successor program to the Aid to Families with Dependent Children (AFDC) program and which is operated under the provision of the federal waiver demonstration projects authorized under Public Chapter 950 (1996) and Section 1115 of the Social Security Act.
- (6) In order to provide continued specific interpretation of certain responsibilities of the Department of Human Services under Title IV-A, Title IV-D, Title IV-F and Title XIX of the Social Security Act which continue to be necessary and which may not have been waived with or superseded by:

(Rule 1240-1-45-.01, continued)

- (a) The specific requirements of Chapters 1240-1-45 through 1240-1-56;
  - (b) The federal waiver granted by the United States Department of Health and Human Services on July 25, 1996 as the result of Public Chapter 950 (1996), and as such waiver may be further modified; and
  - (c) Federal law or regulations or action transmittals or interpretations of the United States Department of Health and Human Services, as they exist or are amended, or with Federal or state court orders which affect Chapters 1240-1-1 through 1240-1-45 or which otherwise affect the Department of Human Services' responsibility under Title IV-A, Title IV-D, Title IV-F, and Title XIX of the Social Security Act:
- (7) The following provisions of Chapters 1240-1-2 through 1240-1-44 are, as limited by Paragraph (6), and as they relate to the Title IV-A, Title IV-D, Title IV-F, and Title XIX Medicaid programs concerning the operation of the Families First program, are incorporated by reference into the Families First Program:
- (a) Chapter 1240-1-13 - Case Records Management.
  - (b) Chapter 1240-1-14 - Application Process.
  - (c) Chapter 1240-1-15 - Interviewing for Eligibility.
  - (d) Chapter 1240-1-16 - Verification Procedures.
  - (e) Chapter 1240-1-17 - Timeliness Standards.
  - (f) Chapter 1240-1-18 - Authorization of Grants and Allotments.
  - (g) Chapter 1240-1-19 - Continuing Responsibilities.
  - (h) Chapter 1240-1-43 - Protection of Children.
- (8) (a) Temporary Assistance, also referred to as Families First, means the program to provide economic support and other support services to families which is provided by the State of Tennessee utilizing funds made available by the Congress of the United States and the Secretary of the Federal Department of Health and Human Services to the State of Tennessee pursuant to the Social Security Act and the waivers granted under Section 1115 of the Social Security Act, and any state funds which may be appropriated by the General Assembly designated to support the temporary assistance program.
- (b) Throughout Chapters 1240-1-1 and Chapters 1240-1-45 through Chapters 1240-1-56, and where the context requires, the use of the term "Families First" shall encompass the Temporary Assistance (TA) program referenced in Public Chapter 950 (1996) and references to the receipt or application for "Families First" shall, only where the context so requires, mean Temporary Assistance.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); Section 1115 of the Social Security Act; 42 USC §§601-617; 45 CFR 201-257. **Administrative History:** Original rule filed December 2, 1996, effective February 15, 1997.

**1240-1-45-.02 DEFINITIONS.** Listed below are definitions of some of the frequently used terms used by the Department of Human Services in the Families First program. This list is not inclusive and should be read in the context of instructions/policies contained in the Families First Handbook of the Family Assistance Manual.

- (1) Absence. Refers to an individual who is physically not in the home.
- (2) Adoptive Parent. The mother and/or father of a child whose parental relationship to the child has been formally established by order of a court of competent jurisdiction.
- (3) Alleged Father. The natural father of a child born out of wedlock for whom paternity has not been established.
- (4) Assistance or Temporary Assistance. Cash benefits paid to an eligible Families First group.
- (5) Assistance Group. A group of individuals for whom Families First is requested or authorized. An assistance group may also be referred to as an AG.
- (6) Caretaker. A relative within a specified degree of relationship to the child who provides a home for the child, exercises primary responsibility for care and control of the child, and is included in the assistance group.
- (7) Child or Children. A person or persons under 18 years of age, or a person who has not reached his/her 19th birthday and who is a full-time student expected to graduate by the 19th birthday.
- (8) Custody. Immediate charge and control exercised by a person (or an authority) over another. Legal custody is granted by a court of competent jurisdiction.
- (9) Department. The Department of Human Services.
- (10) Dependent Child. A needy child age 17 or younger who is deprived of parental support or care because at least one parent is dead, absent, physically or mentally incapacitated, or unemployed. Included in this definition also is a child age 18 who is deprived of parent support or care and is a full-time student in a secondary school or an equivalent level of vocational or technical school, and is reasonably expected to complete the course of education/training before age 19 or in the month of his/her 19th birthday.
- (11) Disability. Disability is considered to exist if an individual has been approved for Social Security or SSI on the basis of his/her disability, Veterans Benefits based on his/her 100% disability, or Black Lung benefits based on his/her disability. When a caretaker has been determined to be disabled by approval of benefits as described above, the AG is exempt from the eligibility time limits.
- (12) Family. A family is an eligible group of children and parent(s) or caretaker relatives living in a common residence.
- (13) Family Cap. A ceiling on assistance group grant payments for a period of eligibility that occurs when a child is born to the assistance group at least 10 months from the date of application for Families First or the date of implementation of the Families First program, whichever is later.
- (14) Grantee Relative. A person who receives Families First for children in his/her care. A grantee relative may be a relative other than a parent. A relative other than a parent may be included in or excluded from the AG, depending on case circumstances, but is not required to be included in the group.

(Rule 1240-1-45-.02, continued)

- (15) **Guardian/Conservator.** A guardian is a person who has been named to manage the affairs and/or the person of a minor; a conservator is an individual who has been named to manage the affairs and/or the person of a minor.
- (16) **Half-Siblings.** Half-brothers/sisters who share one natural or adoptive parent.
- (17) **Home.** A home is considered to be a family setting maintained (or in the process of being established) by the relative who requests Families First for a child living with him/her. Under this definition, the family setting may include, but is not limited to, a fixed address, a homeless shelter, or no stationary location. A home exists as long as the relative exercises care and control of the child, even though either the child or the relative is temporarily absent from the customary family setting.
- (18) **Incapacity.** Incapacity is deemed to exist when a parent of a dependent child has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child and must be expected to last for a period of at least 30 days. Incapacity may be a reason for deprivation or may be a reason for a temporary exemption from a work requirement.
- (19) **Joint Custody.** Legal custody of a child held simultaneously by two or more persons. Usually, joint custody is granted to parents of children when the parents are divorced.
- (20) **Legal Father.** The biological father of a child married to the child's mother; the mother's husband when a child is born during the marriage; the child's legally adoptive father; the natural father whose paternity of a child has been legally established.
- (21) **"Living With."** Occupying a place of residence maintained by a specified relative as his/her own home and the home of the child for whom Families First assistance is requested.
- (22) **Marriage During the Receipt of Assistance.** A legal union between a caretaker and another individual during a period of Families First eligibility.
- (23) **Minor.** A person under 18 years of age. A minor is considered a dependent child if he/she is living with a specified relative who is requesting/receiving assistance for him/her. A minor parent may apply for assistance for her/himself and his/her child as a separate assistance group if living outside of a parent's home, or when living in the parent's home and the parent does not choose to apply for that minor (and his/her siblings, if appropriate), or the parent is ineligible for assistance.
- (24) **Natural Parent.** The birth mother; the biological father of a child born in or out of wedlock.
- (25) **Payee.** The person to whom a Families First grant check is payable.
- (26) **Protective Payee.** The person other than the caretaker or grantee relative to whom a Families First grant is made payable. A protective payee has responsibility for administering the payment for the benefit of the assistance group.
- (27) **Relative Within a Specified Degree of Relationship.** Any blood relative, i.e., father, mother, brother, sister, uncle, aunt, first cousin, nephew, niece, or first cousin once removed. This includes relationships to persons of the preceding generations as denoted by prefixes of grand, great or great-great, and those of half-blood; stepfather, stepmother, stepbrother and stepsister; legally adoptive parents of the child or of the child's parents; the natural and other legally adopted children of such

(Rule 1240-1-45-.02, continued)

- persons and the blood relatives of such persons, including persons within the 5th degree of relationship to the child for whom assistance is requested. Termination of parental rights does not affect a child's blood relationship to his natural extended family. However, adoption of a child or his/her parent establishes a legal relationship to a new set of relatives - both immediate and extended families. The adopted relatives within specified degrees of relationship and the blood relatives within specified degrees of relationship qualify to receive Families First for an adopted child. Legal spouses of any of the above-named relatives are considered to be within the specified degree of relationship to the child. This applies even though the marriage may have been terminated by death or divorce. In determining whether any of these relationships exist, for the purpose of either granting or denying assistance, only the necessary blood relationship must be established.
- (28) **Set of Children.** A set of children is one child, or two or more children who are whole brothers and/or sisters, half-brothers and/or sisters, or adoptive brothers and/or sisters.
  - (29) **Stepparent.** A person who is not the natural or adoptive parent of the child, but who is married to the child's natural or adoptive parent.
  - (30) **SSI Beneficiary.** A person who receives Supplemental Security Income benefits through the Social Security Administration.
  - (31) **Step-Siblings.** Stepbrothers/sisters share no natural or adoptive parent, but their respective parents are married to each other.
  - (32) **Support.** Refers to the furnishing of a means of livelihood or sustenance.
  - (33) **Technically Eligible.** Meets all non-financial Families First eligibility requirements.
  - (34) **Temporary Absence.** Being away from the home for a short period of time (usually not to exceed three months) with a specific intention of returning to the home on or about a specific date.
  - (35) **Whole Siblings or Siblings.** Brothers/sisters who share the same mother and father.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); 42 USC §§601--617; Section 1115 of the Social Security Act; and 45 CFR 201-257. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-45-.03 RIGHT TO APPLY.**

- (1) Any person wishing to do so shall have the right to apply for Families First without delay.
- (2) Information about programs of assistance administered by the Department of Human Services shall be provided to any person requesting it.
- (3) Applications must be filed in the Department of Human Services county office of the applicant's residence and must be on a form prescribed by the agency. The application must be filed by the applicant himself/herself, his/her authorized representative or designated agent, or someone acting responsibly for him/her.
- (4) An applicant may be assisted by an individual of his/her choosing in the various aspects of the application/redetermination of eligibility process. However, it is unlawful for any person/agency to charge or receive any thing of value, either directly or indirectly, for providing such assistance to a person requesting aid.

(Rule 1240-1-45-.03, continued)

- (5) A person found eligible for Families First cash payments is eligible for Medicaid/TennCare benefits without filing a separate application.
- (6) Proof of eligibility is not required of a person prior to his/her filing an application.
- (7) The right to file an application shall not be denied to any person even though it is apparent to the worker that eligibility for Families First benefits does not exist.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); 45 CFR 206.10. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.